

UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF TENNESSEE AT KNOXVILLE

RENE SAMUEL KENDALL,

Plaintiff,

vs.

SEVIER COUNTY, CITY OF PIGEON
FORGE, RUSSELL PARKER, JACK
BALDWIN, and GARY CAMPBELL,

Defendants.

ORDER

Case No. 3:11-cv-388

Judge Tena Campbell

Plaintiff Rene Samuel Kendall filed this action pursuant to 42 U.S.C. §§ 1983, 1985, and 1986, alleging various violations of his constitutional rights, such as illegal search, illegal seizure, excessive force, failure to intervene, and conspiracy. After a number of delays in the discovery process, Defendants moved the court to dismiss the case for lack of prosecution (Docket No. 51). On April 23, 2013, that motion was referred to United States Magistrate Judge C. Clifford Shirley pursuant to 28 U.S.C. § 636(b)(1)(B).

On May 28, 2013, Judge Shirley issued his Report and Recommendation, recommending that Defendants' motion to dismiss be denied in part and granted in part (Docket No. 62). The parties were given fourteen days to file objections to the Report and Recommendation and were cautioned that failure to file an objection could constitute waiver thereof upon subsequent review. No objections were received.

The court has carefully reviewed the Report and Recommendation and the relevant materials in the file and finds the recommendation correct in all respects. Accordingly, the Report and Recommendation (Docket No. 62) is adopted as the order of the court. The Motion

to Dismiss (Docket No. 51) is DENIED IN PART to the extent it requests dismissal of the case, and is GRANTED IN PART to the extent it requests an award of attorney's fees and costs.

SO ORDERED this 18th day of June, 2013.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Tenia Campbell".

TENA CAMPBELL
United States District Judge